

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL MEMORANDUM**

**HB 383 – SB 1254**

March 7, 2017

**SUMMARY OF ORIGINAL BILL:** Reduces the expungement fee from \$350 to \$205 and changes the allocation formula. Authorizes a person to seek expungement after one year, rather than five years.

**FISCAL IMPACT OF ORIGINAL BILL:**

Decrease State Revenue – \$131,400

**SUMMARY OF AMENDMENT (004602):** Deletes all language after the enacting clause. Authorizes expungement for 17 misdemeanor offenses not currently expungable under current law.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

Increase State Revenue – \$40,300/TBI  
\$91,400/District Attorneys  
\$16,700/Handgun Permit Division  
\$10,200/Public Defenders  
\$101,500/General Fund

Increase Local Revenue – \$77,000/Court Clerks  
\$1,500/Sheriffs

Assumptions for the bill as amended:

- Tennessee Code Annotated § 40-32-101(g)(1)(B) prohibits expungement of 45 different misdemeanor offenses. The proposed legislation removes 17 offenses from this list thus allowing expungement for such offenses.
- Some of the offenses include assault, domestic assault, aggravated assault of a public employee, fraudulent use of a credit/debit card up to \$500, aggravated criminal trespass of a habitation, enticing a child to purchase intoxicating liquor, unlawful dispensing of immediate methamphetamine precursor, violent felon owning or possessing a vicious dog, and misuse of official information by a public servant.

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- Since the expunction law was amended by Public Acts 2012, Public Chapter 1103, the number of expunctions filed each year has been drastically less than anticipated. Approximately one percent of original projections have been realized.
- However, the proposed legislation allows convictions for domestic assault to be expunged.
- Under current law, domestic assault convictions are expressly excluded from consideration for expunction. The bill as amended would delete the exemption and allow persons with convictions for domestic assault to have their records expunged of such convictions.
- As a result, these individuals will be able to purchase and possess firearms.
- Statistics from the Administrative Office of the Courts show that there has been an average of 724.9 misdemeanor domestic assault convictions per year for the last 10 years. These statistics show convictions in trial courts. Most misdemeanors are disposed of in general sessions courts. Fiscal Review Committee staff assumes that one in 10 misdemeanors is disposed of in a trial court. It is assumed that there are 7,249 convictions for domestic assault each year.
- It is assumed that persons with convictions for domestic assault are more likely to seek expunction as doing so will allow them to purchase and possess firearms.
- It is assumed that the bill as amended will result in 700 additional expunctions (approximately ten percent) each year for domestic assault convictions.
- A petitioner seeking an expunction must pay a \$350 fee in addition to a \$100 fee charged by court clerks.
- Under Tenn. Code Ann. § 40-32-101(g)(10), the \$350.00 fee is distributed as follows:
  - \$10.00 to the court clerk collecting the fee;
  - \$50.00 to the Tennessee Bureau of Investigation (TBI);
  - The remainder (\$290.00) is distributed:
    - 5 percent (\$14.50) to the public defenders expunction fund;
    - 45 percent (\$130.50) to the district attorneys expunction fund; and
    - 50 percent (\$145.00) to the general fund.
- The proposed legislation will increased recurring state revenue as follows:
  - TBI – \$35,000 (700 petitioners x \$50);
  - Public Defenders – \$10,150 (700 petitioners x \$14.50);
  - District Attorneys – \$91,350 (700 petitioners x \$130.50);
  - General Fund – \$101,500 (700 petitioners x \$145).
- The bill as amended will result in a recurring increase in local revenue to court clerks of \$77,000 (700 petitioners x \$110 to court clerks).
- The bill as amended will also result in an increase of applications for handgun carry permits. It is assumed that there will be an additional 100 applications for handgun carry permits filed each year.
- An applicant for an initial lifetime handgun carry permit must pay a \$200 fee in addition to the \$115 general application fee applicable to standard handgun carry permits.
- It is assumed 60 percent (or 60 applicants) will choose to get an initial lifetime carry permit. It is assumed 40 percent (40 applicants) will choose to get a standard handgun carry permit.
- The \$200 fee remains with the Handgun Permit Division of the Department of Safety.

- The \$115 fee is distributed as follows:
  - TBI – \$15 for their Automated Fingerprint Identification System (AFIS); \$38 to run a background check, for a total of \$53;
  - Local Sheriff – \$15 to run a background check; and
  - Department of Safety – \$47 the balance of the fee remaining to the Handgun Permit Division.
- The bill will increase recurring state and local revenue as follows:
  - TBI – \$5,300 (\$53 x 100 petitioners);
  - Sheriffs – \$1,500 (\$15 x 100 petitioners); and
  - Handgun Permit Division – \$16,700 [(\$247 x 60 petitioners) + (\$47 x 40 petitioners)].
- The total recurring increase to state revenue is estimated as follows:
  - TBI – \$40,300 (\$35,000 + \$5,300);
  - District Attorneys – \$91,350;
  - Handgun Permit Division – \$16,700;
  - Public Defenders – \$10,150; and
  - General Fund – \$101,500.
- The total recurring increase to local revenue is estimated as follows:
  - Court Clerks – \$77,000; and
  - Sheriffs – \$1,500.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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